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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,232	02/09/2005	Frank Fassbender	54187/DBP/M521	1556
23363 7590 12/15/2008 CHRISTIE, PARKER & HALE, LLP PO BOX 7068 PASADENA, CA 91109-7068				
EXAMINER				
STRIMBU, GREGORY J				
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3634				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/524,232

Applicant(s)

FASSBENDER, FRANK

Examiner

Gregory J. Strimbu

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/26/07, 5/1/08, 9/04/08.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 13-25, 27 and 29-31 is/are pending in the application.
4a) Of the above claim(s) 16, 17, 20-25, 29 and 30 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-9, 13-15, 18, 19, 27 and 31 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 01 May 2008 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Final Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

Election/Restrictions

Applicant's election of Group I in the reply filed on May 9, 2007 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 16, 17, 20-25, 29 and 30 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on May 9, 2007.

Drawings

The drawing correction filed May 1, 2008 has been approved.

The drawings, however, are still objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the rupturable region (claim 4) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. It should be noted that it is unclear how the region identified with the reference character 100 in figure 3a comprises a "rupturable region". What structure makes the region 100 rupturable?

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure

number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The amendment filed December 26, 2007 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: the rupturable region identified by the reference character 100 in figure 3a.

Applicant is required to cancel the new matter in the reply to this Office Action.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The

abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because recitations such as "edges" on line 4 are confusing since it is unclear what the applicant is attempting to set forth. It appears that the applicant is referring to sides rather than edges. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

Claims 1-13, 15, 18, 19, 26-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "associated engagement regions" on lines 9-10 of claim 1 render the claims indefinite because it is unclear what elements of the invention include the associated engagement regions to which the applicant is referring. Recitations such as "for assembly" on line 11 of claim 1 render the claims indefinite because it is unclear what elements of the invention the applicant is referring to. In other words, it is unclear what elements of the invention are being assembled. Recitations such as "secure" on line 2 of claim 2 render the claims indefinite because they are relative terms whose meaning cannot be readily ascertained by one with ordinary skill in the art and are not defined by the specification. Recitations such as "rotatably mounted relative to each

other" on line 2 of claim 5 and "mounted rotatable" on line 13 of claim 13 render the claims indefinite because it is unclear what the applicant is attempting to set forth. Is the applicant referring to when the first and second guide elements are in the assembly position? Recitations such as "a guide way" on line 3 of claim 18 render the claims indefinite because it is unclear what element of the invention includes the guide way to which the applicant is referring. Recitations such as "an assembly position" on lines 2-3 of claim 19 render the claims indefinite because it is unclear if the applicant is referring to the assembly position set forth above or is attempting to set forth another assembly position in addition to the one set forth above.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9, 13, 27 and 31, as best understood by the examiner, are rejected under 35 U.S.C. 102(b) as being anticipated by Sambor (US 5058322). Sambor discloses a follower 14 for a continuously controlled window lifter 10, the follower mounted on a guide plate 18 fixed in a motor vehicle and being displaceable along an adjusting path formed by a guide way 64 in the guide plate, the follower comprising:

at least a first guide element 24 mounted displaceable on a first side of the guide plate;

at least a second guide element 42 mounted displaceable on second side of the guide plate;

wherein the second guide element 42 is held in an assembly position relative to at least one of the first guide element 24 and another element of the follower through associated engagement regions 36, 46 when the second guide element 42 is held in position adjacent the circular end portion 66 as the first guide element 24 is attached thereto, and;

wherein at least for assembly the first guide element 24 and the second guide element 42 are movably mounted relative to each other so that at least the second guide element can be brought from the assembly position into a functioning position, i.e., when the second guide element 42 is attached to the first guide element 24, on the guide way of the guide plate.

With respect to claims 2, 3, the engagement regions 36, 46 comprise a releasable positive/force locking connection.

With respect to claim 4, the engagement regions 36, 46 comprise a rupturable region for a secure hold of the second guide element in the assembly position.

With respect to claims 5, 6, 27, the first guide element and the second guide element are rotatably mounted relative to each other.

With respect to claim 7, in the functioning position, the first guide element 24 and the second guide element 42 are fixed relative to each other through at least one of a positive locking 28, 32 and a force locking connection.

With respect to claim 8, a locking element 32 is provided for locking the first guide element and the second guide element relative to each other in the functioning position.

With respect to claims 9, 31, the second guide element has as a positive locking engagement region comprises a detent element 32 configured to provide positive locking of the first guide element and the second guide element relative to each other.

Claims 14 and 15, as best understood by the examiner, are rejected under 35 U.S.C. 102(b) as being anticipated by Gudmundsen (US 2017244). Gudmundsen discloses a guide plate 32 for a continuously controlled window lifter in a motor vehicle, comprising: a guide way 33 for guiding a follower 35 of the window lifter and for adjusting the follower along an adjusting path formed by the guide way, and a guide web 36 of the guide way for guiding the follower in the plane of the guide way along the adjusting path, wherein the height of the guide web of the guide way is reduced in a region for assembling the follower 34 as shown in figure 7, the guide way has track faces (not numbered, but shown as the left and right hand faces of the guide plate 32 in figure 5), each track face associated with at least one guide element 37, 44 of the follower.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18 and 19, as best understood by the examiner, are rejected under 35 U.S.C. 103(a) as being unpatentable over Sambor '322 in view of Gudmundsen '244. Sambor discloses a continuously controlled window lifter 10 comprising:

a follower 14 mounted on a guide plate 18 fixed in a motor vehicle and is displaceable along an adjusting path formed by a guide way 64,

wherein at least a first guide element 24 which is mounted displaceable on the a first side of the guide plate, and at least a second guide element 42 which is mounted displaceable on a second side of the guide plate,

wherein the second guide element is held in an assembly position relative to at least one of the first guide element and another element of the follower through associated engagement regions 36, 46,

wherein at least for assembly, the first guide element and the second guide element are movably mounted relative to each other so that at least the second guide element can be brought from the assembly position into a functioning position on the guide way of the guide plate,

wherein the guide way guides the follower of the window lifter and adjusts the follower along the adjusting path,

wherein a guide web (not numbered, but shown in figure 1) of the guide way guides the follower in the plane of the guide way along the adjusting path, and

wherein the follower can be driven along the guide way by one of a cable and a Bowden cable. Sambor is silent concerning a reduced height section of the guide web.

However, Gudmundsen discloses a window lifter comprising a guide plate 32 having a guide web 36, wherein the height of the guide web 36 of the guide way 33 is reduced in a region 34 for assembling the follower.

It would have been obvious to one of ordinary skill in the art to provide Sambor with an assembly region, as taught by Gudmundsen, to increase the ease with which the window lifter can be assembled.

With respect to claim 19, the second guide element 26, 42 is able to at least one of swivel and rotate into an assembly position in which the second guide element can be brought through an opening 66 in the guide plate associated with the guide way at the first side of the guide plate to the second side of the guide plate.

Response to Arguments

Applicant's arguments filed December 26, 2007 have been fully considered but they are not persuasive.

Regarding the applicant's comments concerning Sambor, the examiner respectfully disagrees. Sambor, in figure 1, discloses a first guide element 24 and a second guide element 42. When assembling the follower, the spindle would first be attached to the second guide element 42. Then, the spindle would be attached to the

first guide element 24 by rotating the second guide element and spindle such that groove 32 and detent 28 are positively engaged with one another. Thus, the second guide element 42 would be held in an assembly position in which the second guide member is movable relative to the first guide member. Additionally, the second guide element would be brought into a functioning position when the groove 32 of the spindle 26 engages the detent 28.

Regarding the applicant's comments concerning Gudmundsen, the examiner respectfully disagrees. Gudmundsen, in figure 7, discloses a guide web 36 and a region 34 for assembling the follower. The region 34 for assembling the follower does not include the guide web 36. Thus, the height of the guide web in the assembly region 34 has been reduced to zero. It should be noted that the claims do not require the guide web to actually be present at the assembly region.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 571-272-6836. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gregory J. Strimbu/
Primary Examiner, Art Unit 3634